

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IAGO BURNS,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:06-cv-0499-DFH-WTL
)	
GENERAL MOTORS CORPORATION,)	
)	
Defendant.)	

ENTRY ON PENDING MOTIONS *IN LIMINE*

This employment discrimination has been to the brink of trial twice, but the most recent delay was the result of an irreconcilable conflict between plaintiff and his attorney. Three motions *in limine* remain pending.

First, plaintiff has moved *in limine* (Dkt. No. 42) to exclude any evidence relating to the EEOC's finding of no probable cause on his charge and his grievances under the collective bargaining agreement. Defendant General Motors does not oppose exclusion of the EEOC's finding, and plaintiff's motion is granted to the extent that the EEOC's finding shall not be mentioned in the presence of the jury without first obtaining leave of court to do so. General Motors argues that the result of plaintiff's grievance, including the union's decision not to pursue the grievance of plaintiff's termination any further, is relevant to plaintiff's claim for punitive damages. The court agrees with General Motors. The fact that the union

chose not to pursue the termination any further tends to weigh against a claim for punitive damages. Plaintiff's motion *in limine* is denied with respect to the handling of his grievances.

Second, plaintiff has moved *in limine* (Dkt. No. 48) to prohibit defendant from referring to an incident for which plaintiff was disciplined as involving "sexual harassment." General Motors contends the incident and resulting discipline played an important role in the decision to terminate plaintiff's employment. The precise nature of what happened may be debatable, but the court sees no reason to prejudge the nature of the evidence by prohibiting a particular characterization of the incident. Plaintiff's second motion *in limine* is denied.

Third, defendant General Motors has moved *in limine* (Dkt. No. 50) to exclude several types of evidence.

(a) General Motors seeks to limit plaintiff's claim for damages to a total of \$207,500 based on plaintiff's pretrial disclosures, which identified damage claims of \$200,000 for lost wages and \$7,500 for attorney fees (as of February 6, 2007). See Dkt. No. 50, Ex. B. This portion of General Motors' motion is denied. Plaintiff did not specify amounts for compensatory damages and punitive damages, but neither type of damages is subject to any reliable formula. As for

the amounts for lost wages and attorney fees, plaintiff will be given an opportunity to update those year-old numbers once the court sets a new trial date.

(b) General Motors also seeks to exclude from trial witnesses who have not been identified in a timely manner (specifically including Buddy Sanders and Mandy Adams), evidence of other employees' discrimination claims, and evidence of the tardiness history of other employees who were not similarly situated to plaintiff. Plaintiff did not oppose these requests when it was time to do so. See Dkt. No. 60. These portions of General Motors' motion *in limine* are hereby granted, and plaintiff will not be permitted to offer such evidence at trial.

Finally, plaintiff has not complied with the court's order of December 21, 2007, which gave plaintiff two months, until February 22, 2008, either to find a new attorney or to notify the court and defendant that he will proceed without counsel. No new attorney has filed an appearance for plaintiff. The court assumes that plaintiff therefore will proceed without counsel. At **11:30 a.m. on Tuesday, April 1, 2008**, the court will conduct a scheduling conference to set a new trial date. The conference will take place in Room 330, Birch Bayh United States Courthouse, Indianapolis, Indiana. With advance notice to the courtroom deputy Charles Bruess (317-229-3724), plaintiff and defense counsel may participate by telephone if they wish to do so.

So ordered.

Date: March 19, 2008

A handwritten signature in black ink, reading "David F. Hamilton". The signature is fluid and cursive, with the first name "David" and last name "Hamilton" clearly distinguishable.

DAVID F. HAMILTON, CHIEF JUDGE
United States District Court
Southern District of Indiana

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